

VIA FACSIMILE: 1-571-273-8300

RECEIVED  
CENTRAL FAX CENTER

SEP 25 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Art Unit : 2878  
Examiner : Gagliardi, Albert J.  
Applicant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Filing Date : July 08, 2003  
Confirmation No. : 9360  
Docket No. : AUTO 218  
Customer No. : 028,167

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION – 37 CFR §41.37)

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on July 25, 2006.

2. **STATUS OF APPLICANT**

This application is on behalf of:

X  other than a small entity  
\_\_\_\_\_ small entity

Verified Statement

\_\_\_\_\_ attached  
\_\_\_\_\_ previously submitted on \_\_\_\_\_

Applicant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 3

RECEIVED  
CENTRAL FAX CENTER

SEP 25 2006

3. **FEE FOR FILING APPEAL BRIEF**

Pursuant to 37 C.F.R. §41.20(b)(2) the fee for filing the Appeal Brief is:

<u>      </u>	small entity	\$250.00
<u>  X  </u>	other than a small entity	\$500.00

Appeal Brief Fee Due: \$500.00

4. **EXTENSION OF TERM**

  X   Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. **TOTAL FEE DUE**

The total fee due is:

Appeal Brief fee:	<u>\$500.00</u>
Extension fee (if any):	<u>\$0.00</u>

TOTAL FEE DUE: \$500.00

6. **FEE PAYMENT**

       Attached is a check in the sum of       

  X   Charge Account No. 07-1070 the sum of \$500.00  
A duplicate of this transmittal is attached.

7. **FEE DEFICIENCY**

  X   If any additional extension and/or fee is required charge Account No. 07-1070.  
and/or

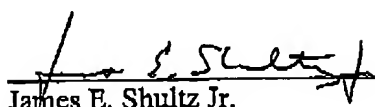
       If any additional fee for claims is required, charge Account No. 07-1070.

Applicant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 3

Respectfully Submitted,

JOSEPH S. STAM ET AL.

Date: Sent 25, 2006

  
James E. Shultz Jr.  
Registration No. 50,511  
GENTEX CORPORATION  
600 North Centennial Street  
Zeeland, Michigan 49464  
Telephone: (616) 772-1590 x4539  
Facsimile: (616) 772-5223

RECEIVED  
CENTRAL FAX CENTER

SEP 25 2006

Atty. Docket No. AUTO 218

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appln. No. : 10/615,317  
Appellants : Joseph S. Stam et al.  
Examiner : Gagliardi, Albert J.  
Art Unit : 2878  
Filing Date : July 8, 2003  
Confirmation No. : 9360  
For : VEHICLE VISION SYSTEM WITH HIGH DYNAMIC RANGE

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

APPEAL BRIEF (37 CFR §41.37)

This brief is in furtherance of the Notice of Appeal filed in this case on July 25, 2006.

The fee required under §40.20(b)(2) is enclosed. If any additional fee is required, Appellants ask that the fee be charged to Deposit Account No. 07-1070.

This brief contains these items under the following headings, and in the order set forth below (37 CFR §41.37(c)(1)):

- I. Real Party in Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
  1. Independent Claim 26
  2. Claim 27
  3. Claim 32

09/26/2006 TL0111 00000055 071070 10615317  
01 FC:1402 500.00 DA

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 2

4. Claim 33
5. Claim 34
6. Claim 35
7. Claim 36
8. Claim 37
9. Claim 38
10. Claim 41
11. Claim 42
12. Claim 43
13. Claim 44
14. Claim 45
15. Claim 46

VI. Grounds of Rejection to be Reviewed on Appeal

VII. Arguments

A. The References

1. U.S. Patent No. 6,552,342 issued to Holz et al.

B. Legal Considerations

1. The rejection of claims 26, 27, 32-38 and 41-46 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention

- a. Claim 26
- b. Claim 27
- c. Claim 32
- d. Claim 33
- e. Claim 34
- f. Claim 35
- g. Claim 36
- h. Claim 37
- i. Claim 38

Appellant : Joseph S. Stam et al.  
 Appln. No. : 10/615,317  
 Page : 3

- J. Claim 41
- k. Claim 42
- l. Claim 43
- m. Claim 44
- n. Claim 45
- o. Claim 46

2. The rejection of claims 26-27, 33, 35-38, 41 and 44-46 under 35 U.S.C. §102(e) as being anticipated by Holz et al. (U.S. Patent 6,552,342)

- a. Claim 26
- b. Claim 27
- c. Claim 33
- d. Claim 35
- e. Claim 36
- f. Claim 37
- g. Claim 38
- h. Claim 41
- i. Claim 44
- j. Claim 45
- k. Claim 46

3. The rejection of claims 32, 34 and 42-43 under 35 U.S.C. §103(a) as being unpatentable over Holz et al.

- a. Claim 32
- b. Claim 34
- c. Claim 42
- d. Claim 43

C. Conclusion

VIII. Claims Appendix

IX. Evidence Appendix

X. Related Proceedings Appendix

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 4

**I. Real Party in Interest**

The real party in interest in this application is Gentex Corporation, the assignment to which was recorded at Reel 014300, Frame 0568 on July 8, 2003.

**II. Related Appeals and Interferences**

Appellants are aware of no appeals or interferences that would directly affect or be directly affected by, or have a bearing on, the Board's decision in the pending appeal.

**III. Status of Claims**

This is an appeal from a final rejection of claims 26, 27, 32-38 and 41-46 of the above-identified application. Of the claims that have been or are currently presented in this application, claims 1-25, 28-31, 39-40 and 47-60 have been cancelled; claims 26, 27, 32-38 and 41-46 are presently rejected. Claims 26, 27, 32-38 and 41-46, as last amended, are attached hereto in the Claims Appendix.

**IV. Status of Amendments**

Amendments to the claims presented in Appellant's paper dated April 10, 2006 were entered according to an Official Communication dated April 27, 2006.

**V. Summary of Claimed Subject Matter**

**1. Independent Claim 26**

Independent claim 26 defines a vehicular vision system (102), comprising: (a) an image sensor (103, 303) and (b) a light source (110), said light source (110) is configured to emit light rays (111) in the non-visible spectrum to illuminate objects within a scene external to a controlled vehicle beyond an exterior surface of a windshield, (c) wherein said light source (110) is configured to operate in synchronous relationship with acquisition of images from said image sensor (103, 303), (d) the vision system (102) being capable of distinguishing vehicular light source from non-vehicular light sources.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 5

The most pertinent description in the application pertaining to the structural aspects of the invention (namely, elements a and b) as recited in claim 26 are found in paragraphs [0033] through [0036] and [0048]. Paragraph [0051] describes the synchronous operation of the light source and image sensor (element c). Paragraph [0055] describes element d.

2. Claim 27

Claim 27 depends from claim 26 and further recites, that the vehicular vision system is configured for use in an apparatus selected from the group comprising: rear vision, collision avoidance, obstacle detection, adaptive cruise control, rain sensing, exterior light control, and lane departure warning.

The subject matter of claim 27 is described in paragraph [0082].

3. Claim 32

Claim 32 depends from claim 26 and further recites, wherein said light source (110) is a broadband emitter having (e) a visible light ray blocking filter.

The subject matter of claim 32 is described in paragraphs [0027], [0045], [0052] and [0062].

4. Claim 33

Claim 33 depends from claim 26 and further recites, wherein said light source (110) is a narrow band emitter.

The subject matter of claim 33 is described in paragraph [0047].

5. Claim 34

Claim 34 depends from claim 26 and further recites, wherein said light source (110) comprising at least one light emitting diode.

The subject matter of claim 34 is described in paragraph [0047], [0048] and [0052].



Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 6

6. Claim 35

Claim 35 depends from claim 26 and further recites, wherein said light source (110) emits light rays in the range from approximately 780nm to approximately 1100nm.

The subject matter of claim 35 is found throughout the original specification.

7. Claim 36

Claim 36 depends from claim 26 and further recites, wherein said light source (110) is pulsed with momentary energy levels that exceed a one hundred percent duty cycle level.

The subject matter of claim 36 is described in paragraph [0049] and [0050].

8. Claim 37

Claim 37 depends from claim 26 and further recites, wherein said image sensor (103, 303) further comprising a narrow band pass spectral filter.

The subject matter of claim 37 is described in paragraph [0047], [0048] and [0052].

9. Claim 38

Claim 38 depends from claim 26 and further recites, wherein said spectral filter is placed between said scene and said image sensor (103, 303).

The subject matter of claim 38 is described in paragraph [0015] and [0028].

10. Claim 41

Claim 41 depends from claim 26 and further recites, wherein said light source (110) is a near infrared laser.

The subject matter of claim 41 is found throughout the original specification.

11. Claim 42

Claim 42 depends from claim 26, further comprising an AC ballast.

The subject matter of claim 42 is described in paragraph [0052].

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 7

12. Claim 43

Claim 43 depends from claim 26 and further recites, wherein said AC ballast is configured to synchronously strike an arc with high intensity when an image is acquired from said image sensor (103, 303).

The subject matter of claim 43 is described in paragraph [0052].

13. Claim 44

Claim 44 depends from claim 26 and further recites, wherein said band pass spectral filter is selected from the group comprising: a movable shutter, a visible light absorbing LCD, an electrochromic filter and a suspended particle device.

The subject matter of claim 44 is found throughout the original specification.

14. Claim 45

Claim 45 depends from claim 26 and further recites, configured for use in an apparatus selected from the group comprising: rear vision, collision avoidance, obstacle detection, adaptive cruise control, rain sensing, exterior light control, and lane departure warning.

The subject matter of claim 45 is described in paragraph [0082].

15. Claim 46

Claim 46 depends from claim 26, further comprising a spectral filter located between said image sensor and the scene, wherein said spectral filter is configured to substantially block light rays other than the predominant spectral band of light rays emitted by said light source (110).

The subject matter of claim 38 is described in paragraph [0015] and [0028].

**VI. Grounds of Rejection to be Reviewed on Appeal**

1. The rejection of claims 26, 27, 32-38 and 41-46 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 8

claim the subject matter which Appellant regards as the invention

2. The rejection of claims 26-27, 33, 35-38, 41 and 44-46 under 35 U.S.C. §102(e) as being anticipated by Holz et al. (U.S. Patent 6,552,342)

3. The rejection of claims 32, 34 and 42-43 under 35 U.S.C. §103(a) as being unpatentable over Holz et al.

## VII. Arguments

### A. The References

1. U.S. Patent No. 6,552,342 issued to Holz et al.

The Holz et al. patent discloses a system for improving the visibility in vehicles. As disclosed throughout Holz et al., the improvement is utilizing a unique code for each vehicle equipped with a night vision system such that no other vehicle will interfere with another.

### B. Legal Considerations

1. The rejection of claims 26, 27, 32-38 and 41-46 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention

#### a. Claim 26

The Examiner has rejected claim 26 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. Additionally, in paragraph 3, the Examiner has interpreted MPEP §2114 as a totalitarian statement with regard to functional limitations in an apparatus claim.

Initially, the Appellant submits that the MPEP and related case law is quite clear as to interpretation of functional language in a claim limitation. MPEP §2131 states:

In order for a claim to be anticipated under 35 U.S.C. §102, however, each and every element as set forth in the claim must be found in a single prior art reference. MPEP § 2131 (emphasis added).

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 9

Related case law from the Federal Circuit provides further guidance when faced with interpretation of functional language specifically recited in an apparatus claim:

Furthermore, functional language in an apparatus claim requires that the anticipatory reference possess the capability of performing the recited function. *R.A.C.C. Industries Inc. v. Stun-Tech Inc.*, 49 USPQ2d 1793 (Fed. Cir. 1998) ("[I]n *Intel Corp. v. U.S. International Trade Commission*, 948 [sic, 946] F.2d 821, 832, 20 USPQ2d 1161, 1171 (Fed. Cir. 1991), this court interpreted functional language in an apparatus claim as requiring that an accused apparatus possess the capability of performing the recited function.").

MPEP §2173.05(g) provides additional guidance:

"A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." MPEP §2173.05(g).

The most pertinent description in the application pertaining to the structural aspects of the invention (namely, elements a and b) as recited in claim 26 are found in paragraphs [0033] through [0036] and [0048]. Paragraph [0051] describes the synchronous operation of the light source and image sensor (element c). Paragraph [0055] describes element d. The Appellant submits that, when taken as a whole, the language as currently recited in claim 26 is definite and distinctly claims the subject matter which the Appellant regards as the invention.

b. Claim 27

The Examiner has rejected claim 27 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 27 is clearly described in paragraph [0082]. In that claim 27 depends from claim 26, the Appellant respectfully submits that claim 27 is in condition for allowance.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 10

c. Claim 32

The Examiner has rejected claim 32 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 32 is clearly described in paragraphs [0027], [0045], [0052] and [0062]. In that claim 32 depends from claim 26, the Appellant respectfully submits that claim 32 is in condition for allowance.

d. Claim 33

The Examiner has rejected claim 33 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 33 is clearly described in paragraph [0047]. In that claim 33 depends from claim 26, the Appellant respectfully submits that claim 33 is in condition for allowance.

e. Claim 34

The Examiner has rejected claim 34 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 34 is clearly described in paragraph [0047], [0048] and [0052]. In that claim 34 depends from claim 26, the Appellant respectfully submits that claim 34 is in condition for allowance.

f. Claim 35

The Examiner has rejected claim 35 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 35 is clearly found throughout the original specification. In that claim 35 depends from claim 26, the Appellant respectfully submits that claim 35 is in condition for allowance.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 11

**g. Claim 36**

The Examiner has rejected claim 36 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 36 is clearly described in paragraph [0049] and [0050]. In that claim 36 depends from claim 26, the Appellant respectfully submits that claim 36 is in condition for allowance.

**h. Claim 37**

The Examiner has rejected claim 37 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 37 is clearly described in paragraph [0047], [0048] and [0052]. In that claim 37 depends from claim 26, the Appellant respectfully submits that claim 37 is in condition for allowance.

**i. Claim 38**

The Examiner has rejected claim 38 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 38 is clearly described in paragraph [0015] and [0028]. In that claim 38 depends from claim 26, the Appellant respectfully submits that claim 38 is in condition for allowance.

**j. Claim 41**

The Examiner has rejected claim 41 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 41 is clearly found throughout the original specification. In that claim 41 depends from claim 26, the Appellant respectfully submits that claim 41 is in condition for allowance.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 12

k. Claim 42

The Examiner has rejected claim 42 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 42 is clearly described in paragraph [0052]. In that claim 42 depends from claim 26, the Appellant respectfully submits that claim 42 is in condition for allowance.

l. Claim 43

The Examiner has rejected claim 43 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 43 is clearly described in paragraph [0052]. In that claim 43 depends from claim 26, the Appellant respectfully submits that claim 43 is in condition for allowance.

m. Claim 44

The Examiner has rejected claim 44 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 44 is clearly found throughout the original specification. In that claim 44 depends from claim 26, the Appellant respectfully submits that claim 44 is in condition for allowance.

n. Claim 45

The Examiner has rejected claim 45 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 45 is clearly described in paragraph [0082]. In that claim 45 depends from claim 26, the Appellant respectfully submits that claim 45 is in condition for allowance.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 13

o. Claim 46

The Examiner has rejected claim 46 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. The subject matter of claim 38 is clearly described in paragraph [0015] and [0028]. In that claim 46 depends from claim 26, the Appellant respectfully submits that claim 46 is in condition for allowance.

2. The rejection of claims 26-27, 33, 35-38, 41 and 44-46 under 35 U.S.C. §102(e) as being anticipated by Holz et al. (U.S. Patent 6,552,342)

a. Claim 26

The Examiner has rejected claim 26 under 35 U.S.C. §102(e) as being anticipated by Holz et al. The Appellant respectfully submits that Holtz et al. does not teach, suggest or imply a vehicular vision system, comprising: an image sensor and a light source, said light source is configured to emit light rays in the non-visible spectrum to illuminate objects within a scene external to a controlled vehicle beyond an exterior surface of a windshield, wherein said light source is configured to operate in synchronous relationship with acquisition of images from said image sensor, the vision system being capable of distinguishing vehicular light source from non-vehicular light sources as recited in claim 26 of the present application.

Holz et al. has absolutely no teaching, suggestion or motivation for distinguishing vehicular light sources from non-vehicular light sources. To the contrary, the Holz et al. disclosure is exclusively focused on distinguishing one vehicular light source from another vehicular light source.

b. Claim 27

The Examiner has rejected claim 27 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 27 depends from claim 26, the Appellant respectfully submits that claim 27 is in condition for allowance over Holz et al.



Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 14

c. Claim 33

The Examiner has rejected claim 33 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 33 depends from claim 26, the Appellant respectfully submits that claim 33 is in condition for allowance over Holz et al.

d. Claim 35

The Examiner has rejected claim 35 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 35 depends from claim 26, the Appellant respectfully submits that claim 35 is in condition for allowance over Holz et al.

e. Claim 36

The Examiner has rejected claim 36 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 36 depends from claim 26, the Appellant respectfully submits that claim 36 is in condition for allowance over Holz et al.

f. Claim 37

The Examiner has rejected claim 37 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 37 depends from claim 26, the Appellant respectfully submits that claim 37 is in condition for allowance over Holz et al.

g. Claim 38

The Examiner has rejected claim 38 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 38 depends from claim 26, the Appellant respectfully submits that claim 38 is in condition for allowance over Holz et al.

h. Claim 41

The Examiner has rejected claim 41 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 41 depends from claim 26, the Appellant respectfully submits that claim 41 is in condition for allowance over Holz et al.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 15

i. Claim 44

The Examiner has rejected claim 44 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 44 depends from claim 26, the Appellant respectfully submits that claim 44 is in condition for allowance over Holz et al.

j. Claim 45

The Examiner has rejected claim 45 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 45 depends from claim 26, the Appellant respectfully submits that claim 45 is in condition for allowance over Holz et al.

k. Claim 46

The Examiner has rejected claim 46 under 35 U.S.C. §102(e) as being anticipated by Holz et al. In that claim 46 depends from claim 26, the Appellant respectfully submits that claim 46 is in condition for allowance over Holz et al.

3. The rejection of claims 32, 34 and 42-43 under 35 U.S.C. §103(a) as being unpatentable over Holz et al.

a. Claim 32

The Examiner has rejected claim 32 under 35 U.S.C. §103(a) as being unpatentable over Holz et al. In that claim 32 depends from claim 26, the Appellant respectfully submits that claim 32 is in condition for allowance over Holz et al.

b. Claim 34

The Examiner has rejected claim 34 under 35 U.S.C. §103(a) as being unpatentable over Holz et al. In that claim 34 depends from claim 26, the Appellant respectfully submits that claim 34 is in condition for allowance over Holz et al.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 16

c. Claim 42

The Examiner has rejected claim 42 under 35 U.S.C. §103(a) as being unpatentable over Holz et al. In that claim 42 depends from claim 26, the Appellant respectfully submits that claim 42 is in condition for allowance over Holz et al.

d. Claim 43

The Examiner has rejected claim 43 under 35 U.S.C. §103(a) as being unpatentable over Holz et al. In that claim 43 depends from claim 26, the Appellant respectfully submits that claim 43 is in condition for allowance over Holz et al.

C. Conclusion

For the reasons set forth above, and as is apparent from examining the invention defined by claims 26, 27, 32-38 and 41-46 when properly considering the cited references, these claims define patentable subject matter. Accordingly, reversal of the rejections of these claims under 35 U.S.C. §§102, 103 and 112 is appropriate and is respectfully solicited.

Respectfully submitted,  
JOSEPH S. STAM ET AL.  
By: Gentex Corporation

Sept. 25, 2006  
Date

James E. Shultz Jr.  
James E. Shultz Jr.  
Registration No. 50,511  
600 N. Centennial Street  
Zeeland, Michigan 49464  
616/772-1800

RECEIVED  
CENTRAL FAX CENTER  
SEP 25 2006

**VIII. Claims Appendix (37 CFR §41.37(c)(1)(viii))**

26. A vehicular vision system, comprising:  
an image sensor and a light source, said light source is configured to emit light rays in the non-visible spectrum to illuminate objects within a scene external to a controlled vehicle beyond an exterior surface of a windshield, wherein said light source is configured to operate in synchronous relationship with acquisition of images from said image sensor, the vision system being capable of distinguishing vehicular light source from non-vehicular light sources.
27. A vehicular vision system as in claim 26 configured for use in an apparatus selected from the group comprising: rear vision, collision avoidance, obstacle detection, adaptive cruise control, rain sensing, exterior light control, and lane departure warning.
32. A vehicular vision system as in claim 26 wherein said light source is a broadband emitter having a visible light ray blocking filter.
33. A vehicular vision system as in claim 26 wherein said light source is a narrow band emitter.
34. A vehicular vision system as in claim 33 wherein said light source comprising at least one light emitting diode.
35. A vehicular vision system as in claim 34 wherein said light source emits light rays in the range from approximately 780nm to approximately 1100nm.
36. A vehicular vision system as in claim 34 wherein said light source is pulsed with momentary energy levels that exceed a one hundred percent duty cycle level.
37. A vehicular vision system as in claim 26 wherein said image sensor further

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 18

comprising a narrow band pass spectral filter.

38. A vehicular vision system as in claim 37 wherein said spectral filter is placed between said scene and said image sensor.

41. A vehicular vision system as in claim 26 wherein said light source is a near infrared laser.

42. A vehicular vision system as in claim 26 further comprising an AC ballast.

43. A vehicular vision system as in claim 42 wherein said AC ballast is configured to synchronously strike an arc with high intensity when an image is acquired from said image sensor.

44. A vehicular vision system as in claim 37 wherein said band pass spectral filter is selected from the group comprising: a movable shutter, a visible light absorbing LCD, an electrochromic filter and a suspended particle device.

45. A vehicular vision system as in claim 26 configured for use in an apparatus selected from the group comprising: rear vision, collision avoidance, obstacle detection, adaptive cruise control, rain sensing, exterior light control, and lane departure warning.

46. A vehicular vision system as in claim 26 further comprising a spectral filter located between said image sensor and the scene, wherein said spectral filter is configured to substantially block light rays other than the predominant spectral band of light rays emitted by said light source.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 19

**IX. Evidence Appendix (35 USC §41.37(c)(1)(ix))**

There was no evidence submitted during this application under 37 CFR §§1.130, 1.131 or 1.132 or any evidence entered by the Examiner and replied upon by Appellant in the appeal.

Appellant : Joseph S. Stam et al.  
Appln. No. : 10/615,317  
Page : 20

**X. Related Proceedings Appendix (35 USC §41.37(c)(1)(x))**

There are no related appeals or interferences pending during this application.